

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE

2004 OCT -6 P 12:02

U.S. DISTRICT COURT
DISTRICT OF MASS.

MURRAY PAVING & RECLAMATION, INC.,

Plaintiff,

v.

INGERSOLL-RAND EQUIPMENT & SERVICES
COMPANY and INGERSOLL-RAND COMPANY,

Defendants.

CIVIL ACTION No. 04-10328 GAO

LOCAL RULE 16.1(D) JOINT STATEMENT

Defendant Ingersoll-Rand Company and plaintiff Murray Paving & Reclamation, Inc. ("the Parties") submit the following joint statement in accordance with Local Rule 16.1(D).

Defendant Ingersoll-Rand Equipment & Services Company ("IRESC") does not join in this joint statement, as Ingersoll-Rand Company argues that IRESC is not a legal entity and has no capacity to be sued pursuant to Federal Rules of Civil Procedure 9 and 17. (Instead, Ingersoll-Rand Company argues that it does business as IRESC to distribute various Ingersoll-Rand products.) Likewise, in its Answer to plaintiff's Complaint, Ingersoll-Rand Company objected to plaintiff's naming of IRESC as a defendant and any allegation by plaintiff that IRESC is a legal entity or person responsible for the alleged harm to plaintiff.

1. Joint Discovery Plan and Schedule

The Parties jointly propose the following discovery plan and schedule:

Stage of Discovery	Date
Deadline to amend pleadings	November 12, 2004
All fact discovery completed, including depositions	April 29, 2005
Service of expert reports on issues as to which a party bears the burden of proof	May 27, 2005
Service of responsive expert reports	June 24, 2005
Service of rebuttal expert reports	July 8, 2005
Depositions of experts completed	July 29, 2005
Rule 56 motions filed	August 31, 2005
Rule 56 oppositions filed	September 23, 2005
Pretrial conference	October 2005
Trial	November 2005

2. Phased Discovery

The Parties have determined that conducting “phased discovery” would be neither beneficial nor desirable in this matter.

3. Trial by Magistrate Judge

The Parties do not consent to a trial by a magistrate judge.

4. Local Rule 16.1(D)(3) Certifications

Certifications pursuant to Local Rule 16.1(D)(3) are filed by the Parties separately.

5. Settlement Offers

The Parties state that they have engaged in settlement negotiations, but are unable to resolve the dispute at this time.

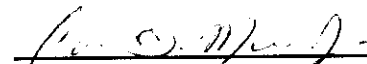
Respectfully submitted,

INGERSOLL-RAND COMPANY,

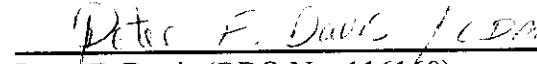
MURRAY PAVING & RECLAMATION, INC.

By its attorneys,

By its attorney,



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Date: October 6, 2004

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